

Remarks

I. Status of Claims

Claims 1-14 are currently pending in this application. Claims 1 and 2 are independent. By this Amendment claims 1-4 are amended and claim 14 is newly added. Support for these amendments can at least be found on page 11, lines 12-21 of the original description and

Claims 1-13 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter.

Claims 1 and 6-8 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Bernard (USP 6,744,448)(hereinafter "Bernard"). Claims 2-5 and 9-13 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Bernard in view of Virgil (2001/0034654)(hereinafter "Virgil").

II. 35 U.S.C. 112, second paragraph, Rejections

Claims 1 and 3 are amended to obviate any perceived ambiguity. The Applicant also respectfully submits the following remarks.

The Examiner pointed the defects of the pending claims based on the second paragraph of 35 U.S.C. 112.

(a) In the Office Action, on page 2, the Examiner expressed his opinion on the expression "based upon the result of naked eye observation" and further raised the question "What if the user is color blind or near sighted?" In addition, the Examiner further pointed out that "Again, the use of a subjective human step renders the claims indefinite."

(b) First, The Applicant would like to respond to the Examiner's opinion related to the "subjective human step," by referring to some US patents, as follows.

US patent 5,579,031

The above patent discloses the invention titled "COLOR MATCHING METHOD AND APPARATUS (Assignee: E.I. Du Pont de Neumours and Company).

This invention has a purpose of indicating visual color digital image on two separate displays M and N connected to an identical data output device. To attain the purpose of this

invention, a plurality of color patches are firstly prepared and two corresponding digital images are indicated on the above-mentioned displays m and n respectively.

Thereafter, the color of the digital images of the above-mentioned color patches indicated on the displays M and N are read by means of a colorimetric measuring device to compare the respective corresponding input color data of M and N, then the data of N is modified to substantially match the color data of the corresponding color patch indicated on the display M, by utilizing a look-up table (LUT).

It is important to recognize the following explanation disclosed in the specification of this patent. That is, in the published specification thereof, column 4, line 59, column 5, line 3, it is disclosed that “The invention comprises a method and apparatus for providing color visual matching of two representations of the same image when the image is displayed in two different displays, so that an observer will on visual examination of the displayed images observe two images having substantially the same color appearance. Using the method or apparatus of this invention causes each of two observers, whose visual response substantially conforms to the visual response of an average observer as defined by CIE institute, upon observing any one of the color displays under the same or similar surrounding illumination and background, to receive substantially the same visual impression.”

Therefore, it is quite clear that color matching operation carried out visually between two separate displays had been already accepted as an essential technical component of a patentable invention in the USPTO.

US Patent No. 5,012,520

The above patent discloses the invention titled “HEARING AID WITH WIRELESS REMOTE CONTROL (Assignee: Siemens Aktiengesellschaft)

The above patent also supports the applicant’s above opinion by the disclosure of the published specification which discloses how the function of this patented equipment relies upon the user’s physical function such as function such as the skin of the hands and the skeleton. (please see the ABSTRACT, claim 1 and column 2, lines 65-column 3, line 3).

(c) Next, the applicant would like to reply the Examiner’s question related to “color

blind person and near sighted person” as follows.

(i) Concerning the Examiner’s comment with regard to color blind persons, clearly the issue of color matching for someone who is color blind is quite irrelevant. Because it is important for a consumer including a color blind person to be able to select his or her article having a desired color with their eyes with reference to the color of an article displayed on the monitor. Therefore, if the color of an article displayed on the monitor is color matched and becomes identical to the color of the actual article itself, it is possible for them to select the article having the desired color even if the color blind person looks at the color of article on the monitor which is different from actual color since he or she can select a desire color looking at the color on the monitor with their eyes.

In other words, they are satisfied if they can select the desired color with their eye.

(ii) Concerning the Examiner’s comments with regard to near sighted persons, since such persons most likely wear corrective lenses to compensate for their near sightedness (since they otherwise would probably be unable to operate a computer and purchase items from Internet websites), the Examiner’s point regarding a potential consumer who is near sighted is also essentially moot.

III. Pending Claims

Independent claims 1 stands rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Bernard. Claim 2 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Bernard in view of Virgil.

The Applicant respectfully submits that claim 1 is patentable over the cited references at least because it recites “a third step of carrying out a color matching operation focused on a digital color image α' of said basic reference color image α displayed on said monitor, wherein said digital color image α' is color matched to the color of said basic reference color image α indicated in said color image product catalog A, and a color of the remaining part B- α' of said digital color image B is resultantly modified to a digital color image B' which is color matched to the color of said color image product catalog A.”

The Applicant respectfully submits that claim 2 is patentable over the cited references at least because it recites “a third step of carrying out a limited color matching operation applied

only to a digital color image α ' of said basic reference color image α displayed on said monitor,"
"a fourth step of obtaining data for color matching from said limited color matching operation,"
and "a fifth step of modifying said digital color image B by applying said data for color matching
to said digital color image B, whereby a modified digital color image B' of said color image
product catalog A is indicated on said potential consumers' own PC."

As discussed on page 2, lines 17-22 of the present application, a drawback of conventional Internet sales systems is that the color of the digital color image B, of the color image product catalog A, indicated on the monitor of a potential consumer is different from the color of the original product catalog A made by the vendor.

Consequently, if the color matching operation is carried out focused on a part x of the digital color image B displayed on a monitor without mechanically selecting the part X, the part X is color matched to the color of part X of the original product catalog A, and the remaining part (B-X) of the digital color image B is resultantly modified and color matched to a color of the original product catalog A.

Based upon the aforementioned idea, the present invention was created. That is, if the vendor prepares the color image product catalog A, in which a known basic reference color image α , such as an RGB basic reference color image, as a yardstick to attain the purpose of the present invention, is included, and a potential consumer C modifies the color of a focused part X indicating the above-mentioned "yardstick" α without mechanically selecting the part in C's own PC in the condition that the color of this "yardstick" α is matched to the color of the "yardstick" α indicated in the original product catalog A, the color of the remaining part of the digital image B-X of the product catalog A indicated on the monitor of the potential consumer C is also modified and is color matched to that of the original product catalog A.

Since the above-mentioned basic reference color image indicated in the original product catalog can be easily obtained by any possible consumer in the market or from a public organization such as an association related to so-called standard color images, the above-mentioned color matching operation based on the "yardstick" image is carried out by utilizing the "yardstick" color image prepared by the potential consumer C before this operation.

As discussed herein above, the above method is quite different from the known color

matching method indicated in any reference publications such as “the user’s guide book” of Adobe Photoshop.

Accordingly, the applicant amended the claims in order to clarify the differences in constitution between the present invention and the cited references as follows:

(1) Re: Claim 1

(a) According to the amended claim 1, the cited references fail to disclose the following:

a third step of carrying out a color matching operation focused on a digital color image α' of said basic reference color image α displayed on said monitor, wherein said digital color image α' is color matched to the color of said basic reference color image α indicated in said color image product catalog A and a color of the remaining part B- α' of said digital color image B is resultantly modified to a digital color image B' which is color matched to the color of said color image product catalog A,”

(b) The Examiner has stated that “Bernard discloses a product catalog displaying a basic color reference image (see col. 4, lines 31-35) attached to the image,” “Bernard further discloses comparing the color of a digital image of a basic reference color image to the color of the consumer’s color reference (see col. 4, lines 35-49)” and “Bernard also discloses a condition that said color of the digital image of basic color image can be recognized as identical to the consumer’s color reference (see col. 4, lines 31-49).”

(c) However, the invention disclosed in Bernard has to detect whether the color correction information described below is associated with the image:

- (1) user specific Hypertext Markup Language (HTML) tags within the web page that designate the color properties of the source image,
- (2) standard ICC profiles which are embedded within the image file itself and
- (3) pointers to user specific or standard color files associated with the image file.

(See col. 4, lines 31-45)

(d) On the other hand, according to the present invention, the color matching operation is carried out focused on a digital color image α' of the basic reference color image α displayed on said monitor, wherein said digital color image α' is color matched to the color of

said basic reference color image α , and a color of the remaining part B- α ' of said digital color image B is resultantly modified to a digital color image B' which is color matched to the color of said color image product catalog A.

(d) As described above, the present invention described in claim 1 does not require detecting whether the color correction information described in the above (1), (2) and (3) is associated with the image, and therefore the color matching operation of the present invention is very simple.

For at least these reasons, claim 1 and its dependent claims are patentable over the cited references.

(2) Re: Claim 2

(a) According to the amended claim 2, the cited references fail to disclose the following:

a third step of carrying out a limited color matching operation applied only to a digital color image α ' of said basic reference color image a displayed on said monitor,

a fourth step of obtaining data for color matching from said limited color matching operation,

a fifth step of modifying said digital color image B by applying said data for color matching to said digital color image B, whereby a modified digital color image B' of said color image product catalog A is indicated on said potential consumers' own PC.'

(b) However, for the same reason as described in claim 1, the present invention described in claim 2 is not taught nor suggested by Bernard.

For at least these reasons, claim 2 and its dependent claims are patentable over the cited references.

IV. Conclusion


In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: March 30, 2007

By:


Daniel G. Shanley
Reg. No. 54,863

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201